



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

No. 52

April 10, 2008

S. 2739 – Consolidated Natural Resources Act of 2008

Calendar No. 616

S. 2739 was read twice and placed on the calendar on March 11, 2008.

Noteworthy

- Today, the Senate will by unanimous consent proceed to consideration of S. 2739, the Consolidated Natural Resources Act of 2008. Senator Coburn will be recognized to offer four amendments. Following two hours of debate, equally divided, the Senate will vote on the amendments and final passage.
- S. 2739 authorizes specified programs and activities of the Department of the Interior, the Forest Service, and the Department of Energy concerning land conveyances, boundary adjustments, studies, memorials, commissions, museums, national park natural resource protection, national trails and rivers, national heritage areas, and advanced energy technology transfer centers. The bill also makes changes to the agreement governing the relationship between the United States and the Northern Mariana Islands and makes amendments to the Compact of Free Association Amendments Act of 2003, the agreement that governs the relationship between the United States and both the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI).
- S. 2739 contains legislative language as contained in S. 2483, the National Forests, Parks, Public Land and Reclamation Projects Authorization Act of 2007, with several additions and deletions. On December 19, 2007, a UC agreement was entered into under which the Senate would, at a time determined by the Majority Leader in consultation with the Minority Leader, proceed to S. 2483 and Senator Coburn be permitted to offer 5 related amendments. The agreement provided that upon disposition of these amendments, the Senate vote on passage of the bill.
- Subsequently, the Majority Leader introduced and by Rule 14 placed on the calendar S. 2616, followed by S. 2739, both substantially similar in content to

S. 2483. He indicated that the UC that covered consideration of S. 2483 will not be in place for purposes of Senate floor consideration of either S. 2616 or S. 2739.

- S. 2739 is largely the same as S. 2483 and S. 2616. It contains one additional Bureau of Land Management authorization, four additional National Park Service authorizations, and three additional Bureau of Reclamation and United States Geological Survey authorizations.
- S. 2739 and S. 2616 do not have Congressional Budget Office (CBO) scores. According to CBO, enacting S. 2483 would reduce direct spending by \$48 million over the FY 2009-2013 period and by \$46 million over the FY 2009-2018 period. Many of the individual bills corresponding to the contents of S. 2483 have individual CBO scores.
- Although there is no Statement of Administration Policy (SAP) for S. 2739, the Administration has submitted testimony concerning many of the provisions contained in the bill.

Highlights

Legislative History:

S. 2739, S. 2616, and S. 2483 are substantially similar in content. Portions of S. 2483 consist of the legislative contents of S. 2179 and S. 2180, both placed on the calendar on October 18, 2007. S. 2179 contains Forest Service, Department of the Interior, and Department of Energy authorizations that had passed the House and that had been approved by the Senate Energy and Natural Resources Committee with little or no change. As S. 2179 awaited floor consideration, additional similar bills arrived from the House. Consequently, S. 2179 no longer represented a comprehensive package of like bills. Because Senators were likely to object to moving S. 2179 unless the bills more recently passed by the House were added to it, S. 2483 was in December 2007 assembled from S. 2179 and from a package of additional bills contained in S. 2180.

A UC agreement concerning floor consideration of S. 2483 was entered into on December 19, 2007 (order number 546). That agreement read as follows:

Ordered, That at a time to be determined by the Majority Leader, following consultation with the Republican Leader, the Senate proceed to the consideration of S. 2483, a bill to authorize certain programs and activities in the Forest Service, the Department of the Interior, and

the Department of Energy, and for other purposes. Ordered further, That it be considered under the following limitations: that the only amendments in order be five related amendments to be offered by the Senator from Oklahoma (Mr. Coburn), and that upon disposition of all amendments, the bill be read a third time, and the Senate proceed to vote in the passage of the bill.

S. 2616 was placed on the calendar on February 11, 2008. S. 2739 was placed on the calendar on March 11, 2008. The Majority Leader indicated that the terms of the December 2007 UC agreement will not apply to S. 2739.

This notice is based on the provisions of S. 2739 as placed on the calendar. On April 9, agreement was reached to permit 4 Coburn amendments and 2 hours of debate, equally divided, to be followed by votes on the amendments and passage of the bill.

- **Title I-Forest Service Authorizations**
 - This title authorizes the designation of certain lands in Washington State as the Wild Sky Wilderness. It also designates a 19.6-mile trail around Waldo Lake, in the Willamette National Forest in Oregon, as a national recreation trail under the National Trails System Act, to be known as the “Jim Weaver Loop Trail.”

- **Title II-Bureau of Land Management Authorizations**
 - This title contains several Bureau of Land Management authorizations. Section 201 designates the Piedras Blancas Light Station and 18 acres of surrounding public land as an Outstanding Natural Area to be administered by the Bureau of Land Management as a part of the National Landscape Conservation System.
 - Section 202 establishes the Jupiter Inlet Lighthouse Outstanding Natural Area, directs the Coast Guard to develop a management plan, and requires the Secretary of the Interior to manage the Area as part of the National Landscape Conservation System.
 - Section 203 permits Clark County, Nevada to convey certain identified land to the Nevada Division of State Lands.

- **Title III-National Park Service Authorizations**
 - This title provides for certain cooperative agreements and boundary adjustments within land and assets managed by the National Park Service. It provides for specified studies, and authorizes memorials, certain commissions, and museums. It also designates certain geographic features as national trails and scenic rivers. Sections 341-372 provide for certain conveyances, statutory extensions, and payments for debts owed to certain contractors.

- **Title IV-National Heritage Areas**
 - This title establishes National Heritage areas, authorizes viability studies, and makes technical corrections regarding existing Heritage Area studies.

- **Title V-Bureau of Reclamation and United States Geological Survey Authorizations**
 - This title directs the Secretary of the Interior to conduct certain water studies, make changes to existing financing arrangements, make transfers to local water agencies, conduct feasibility studies, provide certain states with assistance concerning water plans, and convey identified assets. It also permits the Secretary to participate in the design and planning of identified water projects.

- **Title VI-Department of Energy Authorizations**
 - This title directs the Department of Energy to establish Advanced Energy Technology Transfer Centers. It also makes changes to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.

- **Title VII-Northern Mariana Islands**
 - This title amends the Joint Resolution approving the “Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America” to include the Immigration and Nationality Act (8 U.S.C 1101), subject to a transition period and additional requirements specified in the title.
 - This title also provides for the election and service of a delegate from the Northern Mariana Islands in the United States Congress.

- **Title VIII-Compacts of Free Association Amendments**
 - This title makes amendments to the Compact of Free Association Amendments Act of 2003 (CFAAA). The title approves agreements regarding disaster assistance negotiated between the United States and the Federated States of Micronesia (FSM) and between the United States and the Republic of the Marshall Islands (RMI). It also makes conforming amendments to the CFAAA. It clarifies the eligibility of both students from the FSM and RMI for certain education programs and the eligibility of the Government, institutions, and people of the Republic of Palau for certain programs.
 - Section 805 provides that citizens of the FSM and RMI who legally reside in the United States are eligible for the programs and services of the Legal Services Corporation. Section 806 makes technical corrections. Section 807 restores the authorization for the FSM, Palau, and the RMI to transmit videotaped programming. Section 808 allows Palau to deposit a payment, otherwise due the United States in connection with a Compact road project, into a trust fund for road maintenance.
 - Section 809 clarifies the tax-free status of the trust funds established for the FSM and RMI under their respective Compacts. Section 810 authorizes the President to transfer by grant certain guided missile frigates

and minehunters to Turkey and Lithuania, and by sale certain minehunters to Taiwan and Turkey. The vessels identified are old.

Background

National Heritage Areas

National Heritage Areas are partnerships among the National Park Service (NPS), states, and local communities, where the NPS supports state and local conservation through federal recognition, seed money, and technical assistance. Lands within heritage areas typically remain in state, local, or private ownership or a combination thereof. Congress has designated 37 National Heritage Areas (NHAs) since 1984.

Congress establishes NHAs by legislation, typically specifying the essential features of an area in its enabling legislation and designating a management entity, usually to coordinate the work of the various partners. The entity develops and implements a plan for managing the NHA. Once approved by the Secretary of the Interior, the management plan becomes a guide for managing the area.

Supporters note that NHA designations help to protect historical areas, tradition and physical assets. By supporting tourism, a designation may also be economically promising for areas that are subject to economic stress. Some also note that NHAs represent an innovative alternative model for land conservation precisely because ownership and management typically remains local, and avoids the cost associated with becoming part of the NPS system.

Criticisms of NHAs typically center on the impact NHA designations have on property rights, noting that without notification requirements property owners may not become aware until too late that designations and management plans approved by the Department of the Interior may limit what owners may do with property located within a designation. This concern extends to designations enacted with provisions meant to be explicitly protective of property rights.

Critics also assert that NHA designations create a presumption of legitimacy in favor of local activists associated with the local coordinating entity designated under the plan. This presumption empowers the entity in discussions focused on land-use and zoning changes.

Federal Lands Management and Acquisition

Senator Coburn's amendments are expected to deal in part with the volume and cost of lands owned and managed by the federal government. According to the Congressional Research Service, 2004 data indicates that the federal government owns about 653 million acres, which amounts to more than 25 percent of the land in the United

States. Because these lands are concentrated in 12 western states (including Alaska, but not Hawaii), concentration of federal ownership in these states is higher. The National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM), all in the Department of the Interior (DOI), and the U.S. Forest Service (USFS) in the Department of Agriculture administer most of these lands. DOI estimates deferred maintenance for the NPS for FY 2006 at between \$5.80 billion and \$12.42 billion, with a mid-range figure of \$9.11 billion. For FY 2006, the USFS estimated its backlog at \$5.59 billion, while DOI estimated the FWS backlog at between \$1.42 billion and \$1.92 billion and the BLM backlog at between \$0.39 billion and \$0.47 billion. The four agencies together had a combined backlog estimated at between \$13.20 billion and \$20.41 billion, with a mid-range figure of \$16.80 billion.¹

Northern Mariana Islands

Title VII of S. 2739 contains the legislative language of S. 1634, the Northern Mariana Islands Covenant Implementation Act, which the Committee on Energy and Natural Resources favorably reported on January 30, 2008. It amends the Covenant with the Commonwealth of the Northern Mariana Islands (CNMI) principally to bring the immigration system of the CNMI under U.S. immigration law. The language provides for a transition period before immigration laws and associated regulations would go into effect.

Since 1976, substantial portions of the relationship between the United States and the Northern Mariana Islands have been governed by the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant), which was signed into law (P.L. 94-241) in 1976 by President Ford. The Covenant conferred U.S. citizenship on CNMI residents and preserved a greater measure of self-government for CNMI. The agreement also permitted CNMI to determine its own immigration standards, which has given rise to concern over its use of guest workers, and, more generically, broader border-security concerns. Section 701 of S. 2739 states that title VII is intended to ensure that border control of the U.S. is maintained, and that “fundamental” immigration policies of the United States are applied to the CNMI to the maximum extent possible.²

Compacts of Free Association

Title VIII of S. 2739 contains the legislative language of S. 283, the Compacts of Free Association Amendments Act of 2007 (CFAAA), which was reported by the Committee on Energy and Natural Resources session on January 31, 2007.

¹ See Congressional Research Service, RL33484, *National Park Management*, February 21, 2008. Viewed April 4, 2008.

² See Congressional Research Service, RL34086, *The Southwest Pacific: U.S. Interests and China's Growing Influence*, July 6, 2007. Viewed January 31, 2008.

In 1986, Congress approved the Compact of Free Association. The agreement provided international recognition of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) as sovereign nations and continued certain political, economic, and security arrangements between the United States and these new nations. In 2003, this agreement was modified by the Compact of Free Association Amendments Act of 2003, which split the Compact into two agreements and made other changes. In 2004, the State Department transmitted recommended additional changes to the Compact, including specific disaster assistance agreements with the FSM and RMI. Provisions covering additional changes to the CFAAA were subsequently added to the language.

Administration Position

At press time, a Statement of Administration Policy (SAP) for S. 2739 was not available. The Administration has submitted testimony concerning many of the provisions contained in the bill.

Cost

There was no CBO score for S. 2739 at press time. CBO estimates that enacting S. 2483 would reduce direct spending by \$48 million over the FY 2009-2013 period and by \$46 million over the FY 2009-2018 period. The sale of naval vessels account for the revenue associated with enactment of the bill. Many of the bills corresponding to the contents of S. 2483 have individual CBO scores associated with them.

Possible Amendments

Under the UC agreement, Senator Coburn will offer 4 amendments. Those amendments are expected to be the following:

1. SA 4519: requiring the National Park Service to use certain funds to dispose of assets;
2. SA 4520: requiring certain notifications related to National Heritage Areas;
3. SA 4521: requiring referenda for certain asset acquisition; and
4. SA 4522: requiring the Director of the Office of Management and Budget (OMB) to determine the volume and cost of federal ownership of certain lands.